

BOARD OF EQUALIZATION
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	FORMAL OPINION
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)	2006-SBE-001
)	
JAMES C. AND FLORENCE MEEK)	Case No. 290009
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)	

Representing the Parties:

For Appellant: James C. and Florence Meek

For Respondent: Suzanne L. Small, Tax Counsel III

Counsel for the Board of Equalization: Ian C. Foster, Tax Counsel

This appeal is made pursuant to section 19324, subdivision (a),¹ of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claims of James C. and Florence Meek for refunds of personal income tax in the amounts of \$1,000 and \$596 for the years 1997 and 1998, respectively.

The issue in this appeal is whether appellants’ claims for refund are barred by the statute of limitations in section 19306. Specifically, we must determine whether appellants were “financially disabled,” as defined in section 19316, and thus entitled to tolling of the statute of limitations. In this opinion, we will address several unresolved questions relating to section 19316, including whether a physician’s affidavit is necessary to show that a taxpayer is “financially disabled,” how the definition of “financially disabled” relates to other definitions of disability, and when the period of financial disability must occur relative to the limitations period described in section 19306.

¹ Unless otherwise specified, all section references are to sections of the Revenue and Taxation Code as in effect for the years at issue.

1 Appellants filed a timely, joint 1997 return on April 1, 1998, and self assessed \$840 due,
2 which they remitted with the return. Appellants filed a timely, joint 1998 return on April 5, 1999, and
3 self assessed \$127 due, which they remitted with the return. On both returns, appellants mistakenly
4 reported their social security benefits as taxable to California.²

5 On March 26, 2004, appellants filed amended 1997 and 1998 returns on which they
6 corrected their earlier mistake and excluded their social security benefits from adjusted gross income.
7 The amended returns claimed refunds of \$1,000 and \$596, respectively. Respondent denied the claims
8 for refund because they were barred by the applicable statute of limitations. Appellants then filed this
9 timely appeal.

10 Appellants do not dispute that their claims for refund would be otherwise barred by the
11 applicable statute of limitations. However, they contend that the statute of limitations should be tolled
12 pursuant to section 19316 because they were unable to manage their financial affairs due to appellant-
13 husband's medical condition. Appellants allege, in general, that appellant-husband was disabled and
14 could not manage their financial affairs from 1994 through 2003.³ They have submitted the following
15 documents in support of their allegations:

- 16 ■ An affidavit from appellant-husband's physician dated June 28, 2004, states that appellant-
17 husband suffered from extreme rheumatoid arthritis and could not manage his financial
18 affairs from January 15, 1994, through January 30, 1999;⁴
- 19 ■ A Social Security payment decision dated May 27, 1997, states that appellant-husband was
20 "disabled" within the meaning of the Social Security Act beginning October 27, 1993,
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23 ² Social Security benefits are not taxable by California. (Rev. & Tax. Code, § 17087.)

24 ³ In various letters and briefs submitted to respondent and this Board, appellants have alleged several different ending dates
25 for appellant-husband's disability. In a letter to respondent dated September 8, 2004, they stated that appellant-husband was
26 disabled until October 2003. In their appeal letter dated October 30, 2004, appellants gave an ending date of January 1999.
27 In their supplemental brief dated March 10, 2005, they stated that appellant-husband could not manage his financial affairs
28 until an unspecified date in 2003. Finally, in their additional brief dated June 11, 2005, appellants alleged that October 2002
was the ending date of appellant-husband's disability.

⁴ Appellants state that the physician's affidavit incorrectly lists January 30, 1999, as the ending date. They believe it should
have listed, and was intended to list, an ending date of January 2002. However, they have provided no documentary evidence
(such as a new or revised affidavit from their physician) to support that allegation.

1 through at least the date of the decision, and that he is entitled to disability insurance
2 benefits;

- 3 ■ A Social Security statement dated October 1, 2002, states that appellant-husband's social
4 security benefits are changing from disability to retirement benefits as of October 2002.

5 Appellants also allege that appellant-wife was unable to manage their financial affairs
6 due to a disability. However, they have neither specified the nature of appellant-wife's disability nor
7 provided any documentary evidence of such disability.

8 Respondent contends that appellants' claims for refund are barred by the applicable
9 statute of limitations and, further, that appellants are not entitled to tolling under section 19316. With
10 regard to 1997, respondent points out that the statute of limitations had already expired prior to the
11 effective date of the tolling statute. With regard to 1998, respondent argues that appellant-husband's
12 financial disability (assuming he met the definition) ended prior to the due date of the return; thus, the
13 statute of limitations could not be tolled because it had not yet begun to run. Finally, respondent
14 contends that the social security documents demonstrate only that appellant-husband was unable to
15 maintain gainful employment, not that he was financially disabled for purposes of section 19316.

16 The relevant statute of limitations is set forth in section 19306. It provides that the last
17 day to file a claim for refund is the later of:

- 18 1. Four years from the date the return was filed, if filed within the extended due date under
19 section 18567;
- 20 2. Four years from the due date of the return, without regard to extensions; or
- 21 3. One year from the date of the overpayment.

22 Appellants filed timely 1997 and 1998 returns before their respective due dates of April
23 15, 1998, and April 15, 1999, without need for extensions. (Rev. & Tax. Code, §§ 18566 & 18567.)
24 They also made full payments of the self-assessed amounts when they filed the returns; those payments
25 were effective on April 15, 1998, and April 15, 1999, respectively. (Rev. & Tax. Code, § 19002.)
26 Under these facts, the last day on which appellants could file a claim for refund for 1997 was April 15,
27 2002, and the last day on which they could file a claim for refund for 1998 was April 15, 2003.

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1 Therefore, the statute of limitations (found in section 19306) bars appellants' claims for refund, which
2 were not filed until May 26, 2004.

3 This Board has consistently held that the statute of limitations on claims for refund is
4 explicit and must be strictly construed, without exception. (*Appeal of Michael and Antha L. Avril*, 78-
5 SBE-072, Aug. 15, 1978; *Appeal of Earl and Marion Matthiessen*, 85-SBE-077, July 30, 1985.) We
6 also have considered the doctrine of equitable tolling and, absent direction from the Legislature, we held
7 that the statute of limitations in section 19306 is not subject to equitable tolling. (*Appeal of Earl W. and*
8 *Patricia A. McFeaters*, 94-SBE-012, Nov. 30, 1994; see also *United States v. Brockamp* (1997) 519 U.S.
9 347.) Thus, without specific statutory authority, we cannot waive or suspend the statute of limitations,
10 and appellants' claims for refund are barred.

11 Since we last considered equitable tolling in a precedential opinion, the Legislature
12 enacted section 19316, which provides specific statutory authority to suspend the statute of limitations in
13 limited circumstances. (Ch. 807, Stats. 2002 (SB 219), effective Sept. 23, 2002.) We will proceed to
14 consider whether section 19316 applies to the circumstances in this appeal.

15 Section 19316, subdivision (a), suspends the limitations period specified in section 19306
16 during any period during which a taxpayer is "financially disabled."⁵ Section 19316, subdivision (b)(1),
17 defines a "financially disabled" taxpayer as an individual who:

18 "... is unable to manage his or her financial affairs by reason of a medically
19 determinable physical or mental impairment that is either deemed to be a terminal
20 impairment or is expected to last for a continuous period of not less than 12 months."

21 An individual is not "financially disabled" if that individual's spouse or any other person
22 is legally authorized to act on that individual's behalf in financial matters. (Rev. & Tax. Code, § 19316,
23 subd. (b)(2).)

24 Section 19316 does not apply to any claim for refund that was otherwise barred as of the
25 statute's enactment date, September 23, 2002. (Rev. & Tax. Code, § 19316, subd. (c).) We can
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27 ⁵ Section 19316 also suspends the running of the limitations periods specified in sections 19308, 19311, 19312, and 19313.
28 Although section 19306 is the only statute of limitations at issue in this appeal, we intend the reasoning in this opinion to
apply to any attempt to invoke tolling under section 19316, regardless of which statute of limitations is sought to be tolled.

1 therefore dispose of appellants' 1997 claim for refund without further analysis. Because the 1997 claim
2 for refund was already barred prior to September 23, 2002, section 19316 is inapplicable to that claim.
3 However, section 19316 may apply to appellants' 1998 claim for refund, if all of that section's
4 requirements are met.

5 The threshold question under section 19316 is whether the taxpayer was "financially
6 disabled," as defined. Section 19316, subdivision (a), states that such financial disability "shall be
7 established in accordance with those procedures and requirements specified by the Franchise Tax
8 Board." In response to that statutory directive, the Franchise Tax Board published Form 1564 and its
9 accompanying instructions. Form 1564 requires an affidavit from a physician that indicates the nature
10 and the duration of the taxpayer's physical or mental impairment, and states the physician's opinion that
11 the taxpayer was unable to manage his or her financial affairs.⁶ Considering the specific statutory
12 directive to respondent, we must respect respondent's requirement that a taxpayer submit, at a minimum,
13 a physician's affidavit in order to demonstrate financial disability. However, if there is reason to suspect
14 fraud or forgery, or the circumstances otherwise call into question the veracity of the physician's
15 affidavit, we may request medical records to verify the taxpayer's condition.⁷

16 In this case, appellants have submitted a Form 1564 containing an affidavit, signed by
17 appellant-husband's physician, which states that appellant-husband suffered from rheumatoid arthritis
18 and could not manage his financial affairs from January 15, 1994, through January 30, 1999. Because
19 we have no reason to suspect that the contents of the affidavit are not genuine, we accept the affidavit as
20 proof that appellant-husband was "financially disabled," as defined in section 19316, for the period
21 indicated in the affidavit. In order to prevent abuse of section 19316, we cannot accept appellants'
22 undocumented allegation that the affidavit lists an incorrect ending date of the financial disability.
23 Appellants had the opportunity to submit a revised affidavit with their supplemental briefing, but did not
24 do so.

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27 ⁶ The Internal Revenue Service also requires a signed physician's statement to prove financial disability under the federal
counterpart to section 19316. (Rev. Proc. 99-21, 1991-1 C.B. 960; Int.Rev. Code, § 6511(h).)

28 ⁷ The Revenue and Taxation Code gives this Board broad authority to "hear and determine" an appeal from an action of the
Franchise Tax Board. (Rev. & Tax. Code, §§ 19047 & 19333.) By regulation, we and our staff are authorized to obtain
additional evidence in the course of determining the appeal. (Cal. Code Regs., tit. 18, § 5075.1, subd. (e).)

1 We now turn to the question of whether an individual who receives social security
2 disability benefits is necessarily “financially disabled” for purposes of section 19316. Despite what may
3 be a common misconception to the contrary, federal and state law is riddled with different definitions of
4 “disability” and other similar terms; an individual may be “disabled” under one law, but not under
5 another. As relevant here, the Social Security Act and section 19316 contain materially different
6 definitions of disability and, accordingly, individuals may meet one definition but not the other.⁸

7 Social security disability benefits are available to an individual who is:
8 “. . . unable to engage in any substantial gainful activity by reason of any medically
9 determinable physical or mental impairment which can be expected to result in death or
10 which has lasted or can be expected to last for a continuous period of not less than twelve
11 months.” (42 U.S.C. §§ 416(i)(1) & 1382c(a)(3)(A).)

12 Although the above-quoted definition is similar, in some respects, to the definition of
13 financial disability in section 19316, there is one important difference: for social security purposes, the
14 individual must be “unable to engage in any substantial gainful activity” while, under section 19316, the
15 individual must be “unable to manage his or her financial affairs.” Because an individual may be unable
16 to hold gainful employment while still being able to manage his or her financial affairs, a person who
17 receives social security disability benefits is not necessarily “financially disabled” under section 19316.⁹
18 Accordingly, even though appellant-husband has demonstrated that he received social security disability
19 benefits beyond January 30, 1999, we cannot conclude that he was also financially disabled for purposes
20 of section 19316 for the same period.

21 Based on the uncontradicted affidavit of appellant-husband’s physician, we find that
22 appellant-husband suffered a period of financial disability, within the meaning of section 19316, from
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24 ⁸ This discussion applies to disability benefits under Title II of the Social Security Act (42 U.S.C. § 401 et seq.),
25 Supplemental Security Income under Title XVI of the Social Security Act (42 U.S.C. § 1381 et seq.), and any other benefits
26 for which eligibility is determined under a similar definition of disability.

27 ⁹ For example, the Homeowners and Renters Property Tax Assistance (HRA) Law provides for the payment of property tax
28 assistance to certain disabled individuals. (Rev. & Tax. Code, § 20501 et seq.) The HRA Law adopts the definition of
“disabled” used for social security disability benefits. (Rev. & Tax. Code, § 20505, subd. (a).) Thousands of times every
year, disabled individuals claim assistance under the HRA Law, receive and deposit assistance checks, and even file appeals
when assistance is denied, thus demonstrating the ability to manage their financial affairs despite their various disabilities.

1 January 15, 1994, through January 30, 1999. However, we observe that the limitations period specified
2 in section 19306 began on April 15, 1999, and ended on April 15, 2003. It is axiomatic that section
3 19316 cannot “suspend” the limitations period unless it overlaps with the period of financial disability.
4 The period of appellant-husband’s financial disability did not overlap with the limitations period on
5 appellants’ 1998 claim for refund. Therefore, section 19316 provides no relief.¹⁰

6 For the foregoing reasons, we conclude that the statute of limitations specified in section
7 19306 bars appellants’ claims for refund for 1997 and 1998. We further conclude that section 19316
8 does not suspend the statute of limitations under the facts of this appeal.

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26 ¹⁰ Even if appellant-husband’s period of financial disability overlapped with the limitations period described in section
27 19306, there would be additional questions. Was appellant-wife authorized to act on appellant-husband’s behalf in financial
28 matters? (See Rev. & Tax. Code, § 19316, subd. (b)(2).) Does section 19316 require that both spouses be financially
disabled when a joint return was filed? (See Rev. & Tax. Code, §§ 19006, subd. (b) & 19301, subd. (b).) Because those
questions are not dispositive and have not been briefed by the parties, we express no opinion on them here.

ORDER

Pursuant to the views expressed in this opinion, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, pursuant to section 19333 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claims of James C. and Florence Meek for refunds of personal income tax in the amounts of \$1,000 and \$596 for the years 1997 and 1998, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of March 2006, by the State Board of Equalization, with Board Members Mr. Chiang, Ms. Yee*, Mr. Leonard, Mr. Parrish and Ms. Mandel present.

John Chiang_____, Chairman

Betty T. Yee*_____, Member

Bill Leonard_____, Member

Claude Parrish_____, Member

Marcy Jo Mandel**_____, Member

*Acting Member, First District

**For Steve Westly per Government Code section 7.9.

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